

§ 31.163 Requirements when a wholesale dealer in liquors maintains a retail department.

(a) *Constructive receipt and sale.* When a wholesale dealer in liquors maintains a separate department on the premises for the retailing of distilled spirits, and the retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may “constructively” receive all distilled spirits in the retail department. Sales involving a wholesale transaction may be “constructively” sold through the wholesale department.

(1) *Receipts.* In lieu of maintaining and preparing the records required by § 31.155, a wholesale dealer may constructively receive all distilled spirits in its retail department. In this case, the receiving document will serve as a receipt for (through) the wholesale department and a disposition (transfer) to the retail department. The receiving document must be maintained by the retail department in accordance with § 31.171.

(2) *Dispositions.* In lieu of maintaining and preparing the records required by § 31.156, a wholesale dealer may constructively sell distilled spirits from its retail department to other dealers. The sales invoice or bill must be filed in the wholesaler’s disposition records and will serve as a record of receipt from the retail department and a record of disposition to another dealer.

(b) *Receipt and disposition records.* Except as provided in paragraph (a) of this section, a wholesale dealer must prepare and maintain the required records of receipt and disposition as prescribed in §§ 31.155 and 31.156. Transfers between the wholesale and retail departments will be treated in the same manner as any other transaction involving the wholesale department.

(c) *Monthly summary report.* When required by § 31.160, a wholesale dealer must prepare and file the monthly summary report of actual or constructive receipts and dispositions of all distilled spirits.

(d) *Physical separation.* Wholesale and retail departments need not be physically separated.

(26 U.S.C. 5121)

**FILING OF WHOLESALE DEALERS’
RECORDS AND REPORTS**

§ 31.171 Method of filing.

A wholesale dealer may file the records of receipt and disposition required by §§ 31.155 and 31.156 in accordance with the wholesaler’s regular accounting and recordkeeping systems. The required records must include the dealer’s own file copies of the receiving or shipping invoices and must be filed according to the following rules:

(a) Wholesale dealers may file records of receipt and disposition in accordance with their own filing system as long as the records are filed by transaction or reporting date and the filing system systematically and accurately accounts for all receipts and dispositions of distilled spirits.

(b) The required records of receipt and disposition must be filed not later than one business day following the date the transaction occurred.

(c) Supporting documents for receipts and dispositions, such as delivery receipts and bills of lading, also may be filed in accordance with the wholesaler’s regular accounting and recordkeeping practices.

(26 U.S.C. 5121, 5122, 5123)

§ 31.172 Place of filing.

Records of receipt and disposition and monthly summary reports required by §§ 31.155, 31.156, and 31.160 must be maintained at the dealer’s place of business. The appropriate TTB officer may, upon request, authorize maintenance of files, or an individual file, at another business location under the control of the same wholesale dealer, when it is determined that such maintenance will not cause undue inconvenience to TTB officers desiring to examine those files.

(26 U.S.C. 5123)

RETAIL DEALER’S RECORDS

§ 31.181 Requirements for retail dealers.

(a) *Records of receipt.* All retail dealers must keep at their place of business complete records showing the quantities of all distilled spirits, wines, and beer received, from whom the distilled